(c) *Minimum bid increments.* The Commission may, by public announcement before or during an auction, require minimum bid increments in dollar or percentage terms.

(d) *Stopping rules.* The Commission may establish stopping rules before or during an auction in order to terminate the auction within a reasonable time.

(e) *Activity rules.* The Commission may establish activity rules which require a minimum amount of bidding activity. In the event that the Commission establishes an activity rule in connection with a simultaneous multiple round auction, each bidder may request waivers of such rule during the auction. The Commission may, by public announcement either before or during the auction, specify or vary the number of waivers available to each bidder.

(f) *Bid withdrawal, default and disqualification payments.* The Commission will impose payments on bidders who withdraw high bids during the course of an auction, who default on payments due after an auction terminates, or who are disqualified. Payments will be calculated as set forth in §§ 1.2104(g) and 1.2109 of this chapter. When the amount of such a payment cannot be determined, a deposit of up to 20 percent of the amount bid on the license will be required.

(g) *Tie bids.* Where a tie bid occurs, the high bidder will be determined by the order in which the bids were received by the Commission.

§ 101.1104 Bidding application (FCC Forms 175 and 175–S).

Each applicant to participate in competitive bidding for LMDS licenses must submit an application (FCC Forms 175 and 175–S) pursuant to the provisions of § 1.2105 of this chapter.

§ 101.1105 Submission of payments.

(a) Each applicant to participate in an LMDS auction will be required to submit an upfront payment in accordance with § 1.2106 of this chapter as announced by the Wireless Telecommunications Bureau by Public Notice.

(b) Winning bidders in LMDS auctions must submit a down payment to the Commission in an amount sufficient to bring their total deposits up to 20 percent of their winning bids within ten business days following the release of a Public Notice announcing the close of the auction. Winning bidders must pay the full balance of their winning bids within ten business days following the release of a Public Notice that the Commission is prepared to award the licenses.

[62 FR 48794, Sept. 17, 1997]

§ 101.1107 Bidding credits for very small businesses, small businesses and entrepreneurs; unjust enrichment.

(a) A winning bidder that qualifies as a very small business or a consortium of very small businesses pursuant to § 101.1112 may use a bidding credit of 45 percent to lower the cost of its winning bid.

(b) A winning bidder that qualifies as a small business or a consortium of small businesses pursuant to § 101.1112 may use a bidding credit of 35 percent to lower the cost of its winning bid.

(c) A winning bidder that qualifies as an entrepreneur or a consortium of entrepreneurs pursuant to § 101.1112 may use a bidding credit of 25 percent to lower the cost of its winning bid.

(d) The bidding credits referenced in paragraphs (a), (b) and (c) of this section are not cumulative.

(e) *Unjust enrichment.* (1) A licensee that utilizes a bidding credit, and that during the initial license term seeks to assign or transfer control of a license to an entity that does not meet the eligibility criteria for a bidding credit, will be required to reimburse the U.S. Government for the amount of the bidding credit, plus interest based on the rate for ten year U.S. Treasury obligations applicable on the date the license is granted, as a condition of Commission approval of the assignment or transfer. If, within the initial term of the license, a licensee that utilizes a bidding credit seeks to assign or transfer control of a license to an entity that is eligible for a lower bidding credit, the difference between the bidding credit obtained by the assigning party and the bidding credit for which the acquiring party would qualify, plus interest based on the rate for ten year U.S. Treasury obligations applicable on the date the license is granted, must be